

AMENDED IN SENATE JUNE 21, 2004
AMENDED IN ASSEMBLY JANUARY 20, 2004
AMENDED IN ASSEMBLY JANUARY 7, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 269

Introduced by Assembly Member Mullin

February 4, 2003

~~An act to add Section 33334.2.2 to the Health and Safety Code, relating to redevelopment.~~ *An act to add and repeal Section 33334.30 of the Health and Safety Code, relating to redevelopment.*

LEGISLATIVE COUNSEL'S DIGEST

AB 269, as amended, Mullin. Redevelopment: San Mateo County.

The Community Redevelopment Law requires redevelopment agencies to use not less than 20% of taxes allocated to the agency for low- and moderate-income housing, as specified. These funds may be used outside of the project area upon a finding by the agency and the legislative body of the community that it will benefit the project area.

~~This bill would expressly authorize redevelopment agencies within the County of San Mateo to use these funds anywhere within the unincorporated territory or within the incorporated limits of any city within the County of San Mateo. It would also expressly authorize any redevelopment agency within the county to use these funds outside its project area upon a finding by the agency and the board of supervisors that this use of funds will benefit the project area. It would prescribe other criteria for the use of those funds.~~

This bill would authorize a redevelopment agency of a community within San Mateo County that has a certified housing element and has met an unspecified percent of its low- and moderate-income housing needs to create and participate in a joint powers authority in order to pool their housing funds for affordable housing uses.

The bill would also require that specified conditions be met and described in a mutually binding contract between the joint powers authority and each participating agency and a receiving entity for the use and transfer of pooled housing funds, and that the conditions include, among other things, a determination by the department that the community of each participating agency has adopted housing elements that are in compliance with existing law and that the proposed use of pooled funds by the receiving entity for these purposes is in compliance with these provisions.

The bill would, on or after January 1, 2009, prohibit a participating agency from creating a new joint powers authority or transferring funds to an existing joint powers authority unless a later enacted statute deletes or extends that date.

This bill would repeal these provisions on January 1, 2010.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1.—Section 33334.2.2 is added to the Health and~~
- 2 *SECTION 1. Section 33334.30 is added to the Health and*
- 3 *Safety Code, to read:*
- 4 *33334.30. (a) The Legislature finds and declares all of the*
- 5 *following:*
- 6 *(1) The transfer of funds to a joint powers authority and the use*
- 7 *of pooled funds within the housing market area of the County of*
- 8 *San Mateo, within one-third of a mile of the El Camino Real*
- 9 *Corridor, on property provided by the San Mateo County Transit*
- 10 *Authority for the purpose of providing affordable housing that is*
- 11 *of benefit to the project area producing the tax increment.*
- 12 *(2) The cost and availability of land, geophysical and*
- 13 *environmental limitations, community patterns, and the lack of*
- 14 *financing make the availability of affordable housing more*
- 15 *difficult in San Mateo County.*



1 (3) *The cooperation of local agencies and the use of pooled*
2 *funds will result in more resources than would otherwise be*
3 *available for affordable housing.*

4 (b) *Notwithstanding any other provision of law, an agency of a*
5 *community within San Mateo County that has a certified housing*
6 *element and has met ____ percent of its low and moderate housing*
7 *needs may create and participate in a joint powers authority for the*
8 *purpose of pooling low- and moderate-income housing funds for*
9 *affordable housing uses. Participating agencies may transfer not*
10 *more than 25 percent of their set-aside funds to a joint powers*
11 *authority for use by the joint powers authority pursuant to this*
12 *section. The joint powers authority may determine the kinds of*
13 *housing projects or activities to be assisted, consistent with this*
14 *section. The joint powers authority may loan, grant, or advance*
15 *transferred housing funds from participating agencies to a*
16 *receiving entity for any eligible housing development within the*
17 *County of San Mateo within one-third of a mile of the El Camino*
18 *Real Corridor, on property provided by the San Mateo County*
19 *Transit Authority, subject to the requirements of this section. In*
20 *addition, the agreement may authorize the joint powers authority*
21 *to issue bonds and to use the pooled funds to leverage other funds*
22 *to assist eligible developments, including loans from private*
23 *institutions and assistance provided by other governmental*
24 *agencies.*

25 (c) *Each of the following conditions shall be met and described*
26 *in a mutually binding agreement between the joint powers*
27 *authority and each participating agency:*

28 (1) *The community of each participating agency shall have*
29 *adopted up-to-date housing elements pursuant to Article 10.6*
30 *(commencing with Section 65580) of Division 1 of Title 7 of the*
31 *Government Code, and the housing elements have been*
32 *determined to be in compliance with the law by the Department of*
33 *Housing and Community Development.*

34 (2) *The community of each participating agency shall have*
35 *met, in its current or previous housing element cycle, ____ percent*
36 *or more of its share of the region's affordable housing needs, as*
37 *defined in Section 65584 of the Government Code, in the very low*
38 *and lower income categories of income groups defined in Section*
39 *50025.5.*



1 (3) Each participating agency shall hold, at least 45 days prior
2 to the transfer of funds to the joint powers authority, a public
3 hearing, after providing notice pursuant to Section 6062 of the
4 Government Code to solicit public comments on the draft
5 agreement.

6 (4) No housing funds shall be transferred from a project area
7 that has indebtedness to its Low and Moderate Income Housing
8 Fund pursuant to Section 33334.6.

9 (5) No housing funds shall be transferred from an agency that
10 has not met its need for replacement housing pursuant to Section
11 33413, unless the agency has encumbered and contractually
12 committed sufficient funds to meet those requirements.

13 (6) Pooled funds shall be used within the county of San Mateo,
14 within one-third of a mile of the El Camino Real Corridor on
15 property provided by the San Mateo County Transit Authority.

16 (7) The agreement shall require compliance by the joint powers
17 authority with the provisions of this section.

18 (8) The joint powers authority shall ensure that the funds it
19 receives are used in accordance with this section.

20 (9) Funds transferred by an agency to a joint powers authority
21 pursuant to this section shall be expended or encumbered by the
22 joint powers authority for the purposes of this section within two
23 years of the transfer. Transferred funds not so expended or
24 encumbered by the joint powers authority within two years after
25 the transfer shall be returned to the original agency and shall be
26 deemed excess surplus funds as provided in, and subject to, the
27 requirements of Sections 33334.10 and 33334.12. Excess surplus
28 funds held by an agency may not be transferred to a joint powers
29 authority.

30 (10) The joint powers authority shall prepare and submit an
31 annual report to the department that documents the amount of
32 housing funds received and expended or allocated for specific
33 housing assistance activities consistent with Section 33080.4.

34 (d) Each of the following conditions shall be met and described
35 in a mutually binding contract between the joint powers authority
36 and a receiving entity:

37 (1) Pooled housing funds may only be used to pay for the direct
38 costs of constructing, substantially rehabilitating, or preserving
39 the affordability of housing units that are affordable to very low or
40 low-income households. Units assisted with pooled funds shall



1 remain available at affordable housing costs in accordance with
2 subdivision (f) of Section 33334.3.

3 (2) Except as provided in this section, pooled housing funds
4 may not be used in any way that is inconsistent with the
5 requirements of Section 33334.3. Pooled housing funds may not be
6 used to pay for planning and administrative costs, offsite
7 improvements associated with a housing project, or fees or
8 exactions levied solely for development projects constructed,
9 substantially rehabilitated, or preserved with pooled funds. The
10 receiving entity shall be subject to the same replacement
11 requirements provided in Section 33413 and any relocation
12 requirements applicable pursuant to Section 7260 of the
13 Government Code.

14 (3) The joint powers authority shall make findings, based on
15 substantial evidence on the record, that each proposed use of
16 pooled funds will not exacerbate racial or economic segregation.

17 (4) The Department of Housing and Community Development
18 has evaluated each proposed use of pooled funds to construct,
19 substantially rehabilitate, or preserve the affordability of housing
20 and determined that the proposed use is in compliance with this
21 section. In considering whether a proposed use of funds will
22 exacerbate racial or economic segregation, the department shall
23 consider all of the following:

24 (A) The record of participating jurisdictions in meeting their
25 share of the regional need for very low and low-income households
26 allocated to the jurisdiction pursuant to Section 65584 of the
27 Government Code.

28 (B) The distance of the proposed housing from a redevelopment
29 area from which pooled funds originated.

30 (C) The income and ethnicity of the residents of the census tract
31 from which the pooled funds originated and in which the housing
32 will be located.

33 (D) The housing need and availability of sufficient sites for
34 housing within jurisdictions from which pooled funds originated.

35 (e) As used in this section, the following terms shall apply:

36 (1) "Housing funds" mean funds in or from the low- and
37 moderate-income housing fund established by an agency pursuant
38 to Section 33334.3.

39 (2) "Joint powers authority" means a joint powers authority
40 created pursuant to Chapter 5 (commencing with Section 6500) of



1 *Division 7 of Title 1 of the Government Code for the purposes of*
2 *receiving and using housing funds pursuant to this section.*

3 (3) *“Receiving entity” means any person, partnership, joint*
4 *venture, corporation, governmental body, or other organization*
5 *receiving housing funds from a joint powers authority for the*
6 *purpose of providing housing pursuant to this section.*

7 (f) *On or after January 1, 2009, no participating agency shall*
8 *create a new joint powers authority or transfer funds to an existing*
9 *joint powers authority pursuant to this section, unless a later*
10 *enacted statute, which is enacted before January 1, 2009, deletes*
11 *or extends that date.*

12 (g) *This section shall remain in effect only until January 1,*
13 *2010, and as of that date is repealed, unless a later enacted statute,*
14 *that is enacted on or before January 1, 2010, deletes or extends*
15 *that date.*

16 ~~Safety Code, to read:~~

17 ~~33334.2.2. (a) Redevelopment agencies within the County of~~
18 ~~San Mateo may use the funds described in Section 33334.2~~
19 ~~anywhere within the unincorporated territory, or within the~~
20 ~~incorporated limits of any city within the County of San Mateo.~~
21 ~~Redevelopment agencies within the County of San Mateo may~~
22 ~~only use these funds outside their project area upon a resolution of~~
23 ~~the agency and board of supervisors determining that the use will~~
24 ~~be of benefit to the project area. In addition, the agency may use~~
25 ~~these funds within the incorporated limits of a city only if the~~
26 ~~agency and the board of supervisors find all of the following:~~

27 ~~(1) Both the County of San Mateo and the city have adopted~~
28 ~~and are implementing complete and current housing elements of~~
29 ~~their general plans that the department has determined to be in~~
30 ~~compliance with the requirements of Article 10.6 (commencing~~
31 ~~with Section 65580) of Chapter 3 of Division 1 of Title 7 of the~~
32 ~~Government Code.~~

33 ~~(2) The development to be funded shall not result in any~~
34 ~~residential displacement from the site where the development is to~~
35 ~~be built.~~

36 ~~(3) The development to be funded shall be a rental housing~~
37 ~~development containing units affordable to lower income~~
38 ~~households or very low income households, as defined in Sections~~
39 ~~50079.5 and 50105.~~



1 ~~(4) The development is in an area with a need for additional~~
2 ~~affordable housing.~~

3 ~~(5) If applicable, Article XXXIV of the California Constitution~~
4 ~~permits the development.~~

5 ~~(6) The city in which the development is to be constructed has~~
6 ~~certified to the agency that the city's redevelopment agency, if one~~
7 ~~exists, is not subject to sanctions pursuant to subdivision (e) of~~
8 ~~Section 33334.12 for failure to expend or encumber a housing fund~~
9 ~~excess surplus.~~

10 ~~(b) If the agency uses these funds within the incorporated limits~~
11 ~~of a city, all of the following requirements shall apply:~~

12 ~~(1) The funds shall be used only for the design and construction~~
13 ~~of, housing containing units affordable to lower income~~
14 ~~households or very low income households, as defined in Sections~~
15 ~~50079.5 and 50105, on property that has been turned over by the~~
16 ~~San Mateo County Transit Authority along the El Camino Real~~
17 ~~Transit Corridor in San Mateo County.~~

18 ~~(2) If less than all the units in the development are affordable~~
19 ~~to lower income households or very low income households, any~~
20 ~~agency assistance shall not exceed the amount needed to make the~~
21 ~~housing affordable to lower income households and very low~~
22 ~~income households.~~

23 ~~(3) The units in the development that are affordable to lower~~
24 ~~income households or very low income households shall remain~~
25 ~~affordable for a period of at least 55 years. Compliance with this~~
26 ~~requirement shall be ensured by the execution and recordation of~~
27 ~~covenants and restrictions that, notwithstanding any other~~
28 ~~provision of law, shall run with the land.~~

29 ~~(4) No development shall be located in a census tract where~~
30 ~~more than 50 percent of its population is very low income.~~

31 ~~(5) Assisted developments shall be located on sites suitable for~~
32 ~~multifamily housing near public transportation.~~

33 ~~(6) Developed units shall not be treated as meeting the regional~~
34 ~~housing needs allocation under both the city's and county's~~
35 ~~housing elements.~~

36 ~~(7) The funds shall be used only for developments for which the~~
37 ~~city in which the development will be constructed has approved~~
38 ~~the agency's use of funds for the development or has granted land~~
39 ~~use approvals for the development.~~



1 ~~(8) The aggregate number of units assisted by the county over~~
2 ~~each five-year period shall include at least 10 percent that are~~
3 ~~affordable to households earning 30 percent or less of the area~~
4 ~~median income, and at least 40 percent that are affordable to very~~
5 ~~low income households.~~

6 ~~SEC. 2.—The Legislature recognizes the unique circumstances~~
7 ~~that exist with respect to San Mateo County that justify the~~
8 ~~enactment of this legislation. The County of San Mateo has very~~
9 ~~high costs of housing. The United States Department of Housing~~
10 ~~and Urban Development has stated the 2004 fair market rent for~~
11 ~~a two-bedroom apartment in San Mateo County to be one thousand~~
12 ~~seven hundred seventy five dollars (\$1,775) per month—the~~
13 ~~second highest rental rate in both the nation and California. In~~
14 ~~addition, the San Mateo County has ongoing traffic congestion.~~
15 ~~According to the California Department of Transportation 1998~~
16 ~~Highway Congestion Monitoring Program overall, delay created~~
17 ~~by a traffic congestion increased 40 percent between 1996 and~~
18 ~~1998. However, San Mateo County has a transit corridor, CalTrain~~
19 ~~that runs the full length of the county and provides transit hubs~~
20 ~~with other regional transit including the Bay Area Rapid Transit,~~
21 ~~the San Francisco Municipal Railway, and the Santa Clara Valley~~
22 ~~Transit Authority light rail. With 77 miles of track and~~
23 ~~undeveloped land near and adjacent to its 14 transit stations located~~
24 ~~in San Mateo County, CalTrain is an ideal corridor to encourage~~
25 ~~affordable transit oriented development. These circumstances that~~
26 ~~exist in San Mateo County are unique and justify the enactment of~~
27 ~~this legislation.~~

